

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARLON JESSIE BLACHER, G50077,

Petitioner,

v.

ROBERT NEUSCHMID, Acting Warden,

Respondent.

Case No. [18-cv-04088-CRB](#) (PR)

**ORDER DISMISSING PETITION  
FOR A WRIT OF HABEAS  
CORPUS AS SECOND OR  
SUCCESSIVE**

(ECF No. 9)

Petitioner, a state prisoner currently incarcerated at California State Prison, Solano, has filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254 seeking a reduction of his February 6, 2009 state sentence under California's Proposition 47 (Cal. Penal Code § 1170.187). His first petition seeking a reduction of his state sentence under Proposition 47 was denied on the merits on January 7, 2016. See Blacher v. Gastelo, No. 5:15-cv-04356-RMW (N.D. Cal. Jan. 7, 2016) (order of dismissal); see also Blacher v. McEwen, No. 5:12-cv-04775-RMW (N.D. Cal. Sept. 22, 2015) (order denying on the merits first petition challenging February 6, 2009 conviction and sentence).

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order from the Ninth Circuit. The petition accordingly is DISMISSED without prejudice to refiling if petitioner obtains the necessary order. But based solely on his affidavit of poverty, petitioner's motion for leave to proceed in forma pauperis under 28 U.S.C. § 1915 (ECF No. 9) is GRANTED.

The clerk is instructed to close the file and terminate all pending motions as moot.

**IT IS SO ORDERED.**

Dated: August 22, 2018



CHARLES R. BREYER  
United States District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARLON JESSIE BLACHER,

Plaintiff,

v.

ROBERT NEUSCHMID,

Defendant.

Case No. 3:18-cv-04088-CRB

**CERTIFICATE OF SERVICE**


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 22, 2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Marlon Jessie Blacher ID: CDC G-50077  
CPS-Solano A5 110L  
2100 Peabody Road  
Vacaville, CA 95696-9998

Dated: August 22, 2018

Susan Y. Soong  
Clerk, United States District Court

By:   
Lashanda Scott, Deputy Clerk to the  
Honorable CHARLES R. BREYER